

**COUNCIL ACTION FORM**

**SUBJECT: DEVELOPMENT & OPERATION OF A 2 MW COMMUNITY SOLAR FARM – AWARD A LETTER OF INTENT**

**BACKGROUND:**

In support of a City Council goal to expand sustainability efforts, Electric Services has been working to implement a community solar project. The project, identified as SunSmart Ames, has three components – Site Selection, Energy Services Agreement with the solar developer, and an Electric Customer Participation Program. Electric Services has been working on each of these three components in parallel. Ultimately, the goal is to present to the City Council an Energy Services Agreement (ESA) with the preferred developer in combination with a Customer Participation program where at least 80% of the project has been subscribed.

**It should be remembered that the approach being recommended for our solar farm is similar to the one adopted by the Cedar Falls Utility. This approach calls for a private developer to take advantage of existing federal tax incentives and construct the solar farm. The City's role in this partnership is to purchase the power generated from this private facility through an Energy Services Agreement. In addition, the City is expected to sell to interested electric customers shares of the energy output in the form of power packs. The revenue obtained through these sales will be used to pay for the obligation under the Energy Services Agreement and any rate incentives to the participants. In this way, the cost of the farm is not subsidized by the general customer base.**

**The purpose of this Council Action Form is to recommend and select a preferred developer for the solar farm. Because signing an Energy Services Agreement is predicated on achieving at least an 80% customer participation level, staff is only asking that the preferred developer be selected, and that the City enter into a Letter of Intent with the developer at this time.**

**Component 1 - Site Selection**

The preferred site (outlined in green below) is located adjacent to the Ames Municipal Airport. It is ideally suited for solar development and has the public visibility that benefits a community solar farm. This land is owned by the City. The land is currently farmed, and the rent revenue is used to support the ongoing operation of the Ames Municipal Airport.

The City has received initial approval from the Federal Aviation Administration (FAA) that a solar farm at this location causes no hazards to aviation traffic. Upon final selection of a developer, the FAA analysis will have to be updated to reflect the specifics of the preferred developer's design.



### Component 2 - Customer Participation

Interested electric customers will subscribe to “Power Packs” in the SunSmart Ames project, and pay a one-time fee in return for billing credits equal to their pro-rated share of monthly generation output from the farm. The community solar farm will be entirely paid for through subscriptions made by the customers. **At present, Electric Services has received “Intent to Purchase” forms for approximately 45% of full capacity of the project.** If not enough customer subscriptions are obtained to meet Electric Services’ goal of 80% of the output of the project, then the City may elect to: a) not execute a contract with the selected developer, b) delay the project until the minimum number of shares are enrolled in the program, c) reduce the size of the Community Solar Farm to meet revised program demand estimates, d) or proceed with the project by obligating the general customer base to absorb the unfunded cost of the project.

### Component 3 - Developer Selection

On May 2, 2017, a Request for Proposal (RFP) was issued to 94 developers for proposals to build, own and operate a two megawatt solar farm. The RFP was advertised on the Current Bid Opportunities section of the Purchasing webpage, and was also sent to two plan rooms and one citizen. On June 23, 2017, staff received proposals from 14 developers. The evaluation team was comprised of staff from Electric Services, Iowa State University Facilities Planning & Management Utilities, and the City’s consultant. Proposals were independently evaluated and ranked in the following two steps:

**STEP 1:**

The proposals were evaluated based on compliance with proposal documents. This criterion was rated on a Pass/Fail basis.

**STEP 2:**

The proposals were evaluated based on: 1) Price of a 25-year Power Purchase Agreement (PPA), and estimated project buyout costs; 2) Annual production estimates; 3) Annual performance guarantees; 4) Performance history and reliability of the equipment specified for this project in similar environments; 5) Strength and experience of the Developer's project team and proven expertise of the project team; 6) System and component product warranties; developer's proposed project financing capability and structure; project schedule; and experience with building at or near an airport location.

Each score was based on a scale of 1 to 10. Overall, 5,000 possible points were available cumulatively for each developer that responded. The price accounted for 50% of the RFP score and the Developer's approach; performance history and strength of developer's proposal; equipment selected; financing; warranties; and guarantees offered account for the other 50%.

The evaluated points and cost per megawatt hour are listed below:

<b>Developers</b>	<b>Total Scores</b>	<b>Power Purchase Agreement per Megawatt Hour</b>
<b>ForeFront Power, San Francisco, CA</b>	<b>3975</b>	<b>\$60.00</b>
Red Lion Renewables, Norwalk, IA	3944	\$60.00
Current Renewable Efficiencies, West Des Moines, IA	3818	\$63.90
Azimuth Energy, St Louis, MO	3609	\$67.50
The Conti Group, Edison, NJ	3472	\$72.00
GroSolar, White River Junction, VT	3435	\$68.00
Sunvest Solar, Inc, Pewaukee, WI	3345	\$71.00
RER Energy Group, Reading, PA	3048	\$85.00
Atwood Electric, Inc., Sigourney, IA	3022	\$80.00
NextEra Energy Resources Acquisitions, LLC, San Francisco, CA	2965	\$89.85
Guzman Energy, Coral Gables, FL	2903	\$89.75
Inovateus Solar, LLC, South Bend, IN	2854	\$88.50
Syncarpha Solar, LLC, New York, NY	2807	\$104.00
United States Solar Corporation, Minneapolis, MN	2691	\$69.00

The top four scoring developers were invited for interviews. Each provided a brief presentation introducing the team members, their roles, and the details in their proposal. Interviews were evaluated based on a clear understanding of the project and scope of services, response to prepared questions and other questions during the interview, a cohesive team approach, methods for achieving the desired outcomes, their ability to complete the proposed scope of services and defining what sets them apart from other developers. As with the proposal scoring, each criterion was weighted and given a score based on a scale of 1 to 10, with a maximum possible score of 5,000.

Based on the interviews, responses to the follow up questions and the determination of the best value to the Utility rate payers and the City, the evaluation team ranked the final four developers as follows:

Developers	Proposal Score	Interview Scores	Total Score	Rank	Price/mWh
<b>ForeFront Power, San Francisco, CA</b>	<b>3975</b>	<b>3250</b>	<b>7225</b>	<b>1</b>	<b>\$60.00</b>
Current Renewable Efficiencies, West Des Moines, IA	3818	3205	7023	2	\$63.90
Red Lion Renewables, Norwalk, IA	3944	3065	7009	3	\$60.00*
Azimuth Energy, St Louis, MO	3609	2890	6499	4	\$67.50

\* assumes the \$15/mWh state tax credit is extended beyond December 31, 2017

Evaluating on price per megawatt alone is a little bit misleading given that each design will operate differently. Depending on the brand of solar panels used and racking system design, the amount of energy produced changes. Therefore, a low cost developer may have a more expensive project when the amount of energy produced is also considered. This is due to the fact that the energy services agreement links the monthly bill to the amount of energy produced. The energy produced also has a bearing on the cost of the power packs sold to the retail electric customer.

Developers	Price/mWh	Est. yearly energy production (in mWh)	Yearly Cost Of ESA	Est. Cost of ESA Over 25 Year Life of Project (in millions)
<b>ForeFront Power, San Francisco, CA</b>	<b>\$60.00</b>	<b>2,977</b>	\$178,620	\$4.465 M
Current Renewable Efficiencies, West Des Moines, IA	\$63.90	2,637	\$168,504	\$4.213 M
Red Lion Renewables, Norwalk, IA				
Fixed mounted w/ state tax credit	\$60.00	2,408	\$144,480	\$3.612 M
Tilt mounted w/state tax credit	\$60.00	2,748	\$164,880	\$4.122 M
Fixed mounted no state tax credit	\$75.00	2,408	\$180,600	\$4.515 M
Tilt mounted no state tax credit	\$75.00	2,748	\$206,100	\$5.153 M
Azimuth Energy, St Louis, MO	\$67.50	2,563	\$173,009	\$4.325 M

**Based on the total scores and a unanimous decision by the evaluation team, staff has concluded that ForeFront Power will provide the best value for the ratepayers, offering 13% more energy over the next best proposal for only a 6% increase in total project cost. Furthermore, the staff believes the system being offered by ForeFront will be able to handle peak demand better due to its design, the developer offers a stable financing package, and the panels will be more visible from Highway 30.**

**This project will not move forward until at least 80% of the project has been committed to by the ratepayers. Approximately 45% of the project is currently committed. ForeFront has offered its assistance in developing additional marketing strategies to our customers for no additional cost to the project.**

**Staff is recommending that the City enter into a Letter of Intent (LOI) with Forefront Power, San Francisco, CA to:**

- 1. Finalize the negotiations of the purchase power agreement**
- 2. Utilize its marketing support to help attract participation in the project.**
- 3. Extend the term of the proposal.**
- 4. Commit to work exclusively with the developer during the term of the LOI.**

**Staff expects to bring back to the City Council a final Energy Services Agreement within the next 120 days if 80% participation is achieved. No payments will be made based on this Letter of Intent.**

EUORAB held a meeting on November 13, 2017, during which the developer selection and letter of intent was discussed. EUORAB voted in support of ForeFront's selection and recommended that the City Council approve the Letter of Intent.

#### **ALTERNATIVES:**

1. Select ForeFront Power of San Francisco, CA, as the developer of the SunSmart Ames project and enter into a Letter of Intent to begin working on the Energy Services Agreement.
2. Select a different developer to construct the community solar farm.
3. Reject all proposals and delay the construction of the community solar farm.

#### **CITY MANAGER'S RECOMMENDED ACTION:**

Implementing a community solar project is one of the City Council goals to expand sustainability efforts. Unlike other generation projects, SunSmart Ames will only proceed if enough customers show a direct interest in the project. By selecting a developer, the City can finalize the subscription pricing and utilize the developer's solar marketing

expertise. By entering into a Letter of Intent, the City can move ahead with one developer to finalize an Energy Services Agreement to be brought back to Council for approval once the project is at least 80% subscribed. Therefore, based on the information provided by the evaluation team, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as stated above.



## LETTER OF INTENT

This Letter of Intent (“LOI”) sets forth the current mutual intention of the Parties with respect to the terms of the Agreement (as defined below) currently under negotiation between the Parties, but, as more fully set forth in Section 16 of this LOI, does not create any binding obligations of, and shall not create any legal liability for, either Party except as set forth in Sections 6 through 15 of this LOI.

- 1. Project** A photovoltaic solar project with a nameplate capacity of approximately 2 MWdc (the “Project”) to be located in Ames, IA.
- 2. ForeFront Power:** FFP Origination, LLC or its designated project entity (“ForeFront Power”)
- 3. Purchaser:** City of Ames
- 4. Form of Agreement:** Purchaser and ForeFront Power (each, a “Party”, and jointly, the “Parties”) will use good faith efforts to negotiate and execute an energy services agreement (“Agreement”) in which ForeFront Power will sell 100% of the energy output of the Project (and other services as the Agreement may specify) to the Purchaser.
- 5. Effective Date:** November 29, 2017
- 6. Term:** The LOI will automatically expire on the date that is 120 days from the Effective Date of this LOI (“Expiration Date”) unless such Expiration Date is extended by the joint approval of the Parties.
- 7. Additional Services** ForeFront Power will use commercially reasonable efforts to assist Purchaser with marketing and subscribing the Project to Purchaser’s electric customers.
- 8. Conditions Precedent:** The Parties shall not be obligated to enter into the Agreement until the following conditions have been met:
  - a. The terms of the Agreement are acceptable to both Parties in form and substance, inclusive of the terms set forth in the Ames RFP response made by Forefront Power, LLC on June 20, 2017.
  - b. The Project achieves 80% subscription by Purchaser’s electric customers (the “Subscription Threshold”).

- 9. LOI Exclusivity:** Commencing on the Effective Date and continuing through the Expiration Date, the Parties hereto shall enter into an exclusive period (“Exclusivity Period”) with respect to the (a) preparation and execution of the Agreement, (b) preparation and execution of any other documents that may be necessary in connection with execution and delivery of the Agreement (the Agreement and such other documents being referred to collectively as the “Definitive Agreements”) and (c) pursuit of the Subscription Threshold. The Exclusivity Period may be extended by mutual agreement of the Parties. During the Exclusivity Period, Purchaser shall not, nor will Purchaser permit any of its representatives, subsidiaries or affiliates to initiate, solicit, or participate in any proposals, negotiations, or offers with respect to the Project or the Subscription Threshold with any person or entity other than ForeFront Power. Purchaser shall provide ForeFront Power with prompt notification of the occurrence of any facts or circumstances that will preclude Purchaser from consummating the transactions contemplated by this LOI.
- 10. Non-Circumvention** Purchaser acknowledges that ForeFront Power will spend considerable time and resources necessary for the subscription marketing of the Project and achievement of the Subscription Threshold. Therefore, Purchaser agrees that it shall not circumvent ForeFront Power by utilizing subscriptions obtained from its electric customers with a third party unless the Parties have failed to enter into the Agreement and any other Definitive Agreements prior to the Expiration Date notwithstanding both Parties’ commercially reasonable and good faith efforts.
- 11. Good Faith Negotiations:** The Parties hereto agree to cooperate fully with each other and use commercially reasonable and good faith efforts to negotiate, execute and deliver the Agreement and any other Definitive Agreements prior to the Expiration Date. The Agreement and other Definitive Agreements shall be drafted by counsel to ForeFront Power. Each Party will bear its own transaction expenses.
- 12. Assignment** Neither Party may assign any of its rights, duties or obligations under the Agreement without the prior consent of the other, with the exception that ForeFront Power may assign to an affiliate of ForeFront Power.
- 13. Miscellaneous** The Agreement shall contain representations, warranties, indemnities and covenants that are customary for transactions of this kind.
- 14. Confidentiality:** The Parties hereto, along with their respective officers, directors, employees and professional advisors, shall keep the terms of this transaction (including without limitation information concerning the Project) secret and confidential. Notwithstanding the foregoing, the Parties may disclose such information (a) to their respective lenders, attorneys, accountants, consultants and other financial advisors, potential investors, investors, potential lenders, and lenders (collectively, “Representatives”) solely for use in connection with their representation of such party or involvement in the transactions contemplated by this LOI and the Definitive Agreements (in which case, such party shall be responsible for disclosures by its Representatives in violation of the foregoing restrictions), (b) as may be required by applicable law, subpoena or court order, or (c) to any governmental agency as necessary for the development of the

Project. The Parties hereto shall not make any public announcement regarding this LOI or the Agreement without the prior written consent of all Parties.

**15. Governing Law; Counterparts** This LOI will be governed by the laws of the State of Iowa, and may be executed and delivered in one or more counterparts, each of which constitutes the same agreement.

**16. Non-binding Effect** Each party acknowledges and agrees that, notwithstanding any other provision of this LOI except for Sections 6 through 15, or any other action or statement of either party or any of their respective representatives, this LOI merely constitutes a statement of the current mutual intentions of the Parties with respect to the transactions described herein, does not contain all matters upon which Definitive Agreements must be reached in order for such transactions to be consummated, is not intended to and does not create any legally binding obligation on the part of any party, whether or how to consummate such transactions or otherwise, and no such obligation will exist unless and until the Agreement is executed and delivered by the Parties, and then only to the extent provided therein. Only Sections 6 through 15 of this LOI, constitute legally-binding obligations of the Parties.

*[signature page follows]*

Each of the undersigned agrees to the foregoing terms of this LOI.

**City of Ames**

By: \_\_\_\_\_  
Name: Ann H. Campbell, Mayor  
Title: Mayor

Attest by: \_\_\_\_\_  
Diane R. Voss, City Clerk

**FFP Origination, LLC**

By: \_\_\_\_\_  
Name:  
Title: